

REMARKS

In the Office Action, the restriction requirement is made final and therefore claims 10-29 have been withdrawn from consideration. Claims 30-43 have been added; claim 3 has been cancelled; claims 1-2, 4-9 and 30-43 are pending.

The Office Action objects to claim 9 and claim 9 has been amended to traverse this objection.

Turning to the rejections bases upon the prior art, claims 1, 5 and 9 stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by French Publication No. 2 656 495 (“Abel”). In response, claim 1 has been amended to traverse this rejection. Specifically, claim 1 requires a hollow plastic simulated rock lawn edging that is not taught or suggested by Abel.

Specifically, Abel cannot serve as an anticipating reference because it does not teach or suggest all the claim limitations of amended claim 1. Under MPEP § 2131,

[t]o anticipate a claim, the reference must teach every element of the claim. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

Citing, *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

With respect to claim 1, Abel fails to teach or suggest a lawn edging with hollow blocks. The sectional views of Abel clearly do not teach or suggest hollow middle and end blocks. Further, Abel does not teach or suggest a hollow structures with a simulated rock appearance. Therefore, for at least these two reasons, Abel cannot serve as an anticipating reference for amended claim 1 and therefore the anticipation rejections of claims 1, 5 and 9 are respectfully traversed.

Next, claims 2, 4, and 7-8 stand rejected under 35 U.S.C. §103 as being unpatentable over Abel alone or Abel in view of U.S. Patent No. 5,956,892 (“Kownacki”), or

Abel in view of U.S. Patent No. 4,509,911 (“Rosenbaum”). Applicants respectfully submit that these obviousness rejections are also traversed.

At the outset, under MPEP §§ 2142 and 2143,

[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure.

Citing, *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); see also MPEP § 2143-§ 2143.03 for decisions pertinent to each of these criteria.

The obviousness rejections are traversed as no combination of Abel, Kownacki and Rosenbaum teach or suggest all of the claim limitations of amended claim 1 and there is no suggestion or motivation in any of the prior art references neither to make the numerous modifications that would need to be made in order to establish a *prima facie* case of obviousness. Specifically, Abel fails to teach or suggest a lawn edging with hollow middle and end blocks. Abel also fails to teach or suggest a plastic simulated rock lawn edging as recited in amended claim 1.

While Kownacki teaches a plastic lawn edging with channels for irrigation purposes, Kownacki does not teach or suggest hollow middle and end blocks and Kownacki fails to teach or suggest any hollow plastic lawn edging with a simulated rock appearance. Therefore, no combination of Abel and Kownacki teach or suggest the lawn edging recited in amended claim 1.

Rosenbaum is only cited for the proposition that it teaches the use of certain plastic materials in living hinges used to make coupling structures. Rosenbaum is not directed toward lawn edgings or hollow plastic simulated rock lawn edgings. Therefore, the combination of Abel and Rosenbaum teaches or suggests the structure of amended claim 1

and certainly no combination of Abel, Kownacki and Rosenbaum teaches or suggests the structure recited in amended claim 1.

Therefore, all obviousness rejections using Abel as a base reference are respectfully traversed.

Claims 1, 3-6 and 9 stand rejected under 35 U.S.C. §103 as being unpatentable over Japanese Publication No. 200-300071 (“Kono”) in view of U.S. Patent No. 352,146 (“Oungst”). In response, Applicants respectfully submit that this rejection is improper in view of amended claim 1.

First, Kono does not teach or suggest a hollow lawn edging structure. Kono also fails to teach or suggest a plastic hollow simulated rock lawn edging structure. Therefore, Kono is clearly deficient as a base reference.

Oungst is directed toward a clay or metal lawn edging (see column 1, lines 37-40). Thus, no combination of Kono and Oungst teach or suggest the hollow plastic simulated rock lawn edging of amended claim 1 and therefore the obviousness rejections of claims 1, 3-6 and 9 are respectfully traversed.

The Patent Office then rejects claim 2 under 35 U.S.C. §103 as being unpatentable over Kono, Oungst and Kownacki. Applicants respectfully traverse this rejection as neither of these references teach or suggest a lawn edging with hollow plastic end blocks with a simulated rock appearance. All three of these references are deficient in at least two respects as set forth above.

Finally, the Office Action rejects claims 7 and 8 under 35 U.S.C. §103 as being unpatentable over Kono, Oungst and Rosenbaum. Again, this rejection is respectfully traversed as no combination of these three references teach or suggest a hollow plastic lawn edging having a simulated rock appearance as recited in amended claim 1. Therefore, dependent claims 7 and 8 are allowable over these three references.

Applicants also submit that claims 30-43 are allowable over the prior art for at least the reasons set forth above.

An early action indicating the allowability of this application is respectfully requested.

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Respectfully submitted,

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